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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,241	03/06/2002	Stephen Dispensa	1579	8706
28004	7590	02/14/2006	EXAMINER	
SPRINT 6391 SPRINT PARKWAY KSOPHT0101-Z2100 OVERLAND PARK, KS 66251-2100			HAMANN, JORDAN J	
			ART UNIT	PAPER NUMBER
			2667	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/092,241	DISPENSA, STEPHEN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jordan Hamann	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,8-14 and 17-22 is/are rejected.
- 7) ☒ Claim(s) 2,3,6,7,15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 & 14 are rejected under 35 U.S.C. 102(b) as being anticipated by White-Hauser (US 6,064,654).

With respect to claim 5, White-Hauser discloses in column 3 lines 10-17 and column 4 lines 1-10 a method of operating a communication system comprising:

determining a delay variation between at least a first link and a second link;

routing user communications over the first link if the delay variation is within a maximum threshold, and

routing the user communications over the second link if the delay variation exceeds the maximum threshold.

With respect to claim 14, White-Hauser discloses in column 3 lines 10-17 and column 4 lines 1-10 a communication system comprising;

a communication processing system configured to route user communications over a first link or a second link in response to control signals; and

a flow control system configured to determine a delay variation between at least a first link and a second link, generate the control signals to route user communications over the first link if the delay variation is within a maximum threshold, and generate the control signals to route the user communications over the second link if the delay variation exceeds the maximum threshold.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 5, 8-14 & 17-22 rejected under 35 U.S.C. 103(a) as being unpatentable over Farris et al. (US 6,574,216 B1) in view of Allain et al. (US 6,449,259 B1).

With respect to claim 5, Farris discloses in column 10 lines 21-24 a method of operating a communication system comprising:

determining a quality of service on at least a first link and a second link;

routing user communications over the first link if the QoS is within a maximum threshold, and

routing the user communications over the second link if the QoS exceeds the maximum threshold.

Farris does not expressly disclose delay variation as a monitored quality parameter.

Allain discloses delay variation as a well-known network characteristic used to determine quality of service (column 4 lines 13-26).

Farris and Allain are analogous art because they are from the same field of endeavor of monitoring quality of service of a communication and routing the communication over a link based on the quality of service.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use delay variation to determine the quality of service of a communication as taught by Allain to determine the quality of service of a communication in the network of Farris.

The motivation for doing so would have been to use a well-known network characteristic used in determining the quality of service of a communication.

With respect to claim 8, Farris further discloses the method of claim 5 further comprising routing the user communications over a pre-determined one of the links if the user communications comprise voice traffic (column 9 lines 35-57).

With respect to claims 9-13, Farris further discloses the method of claim 5 wherein one of the links, the Internet, comprises several possible links, specifically listing an ISDN link or a T1 link (column 1 lines 41-44).

With respect to claims 9-13, Allain discloses the method of claim 5 wherein one of the links comprises several possible links, specifically listing T1 (column 8 line 24), wireless and metallic wires (column 1 lines 20-26 and column 12 lines 1-7) of which MMDS and DSL are known protocols.

With respect to claims 14 & 17-22, the system claims are interpreted and rejected for the same reasons as set forth in the method claims 5 & 8-13, respectively.

With respect to claims 1 & 4, the software product claims are interpreted and rejected for the same reasons as set forth in the method claims 5 & 8, respectively, additionally noting column 10 lines 62-67 and column 11 lines 1-21.

### ***Allowable Subject Matter***

Claims 2, 3, 6, 7, 15 & 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

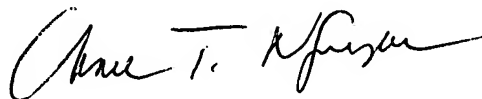
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan Hamann whose telephone number is (571) 272-8564. The examiner can normally be reached on Monday-Thursday 8:30-5:30 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JJH

A handwritten signature in black ink, appearing to read "Chau T. Nguyen", with a stylized flourish at the end.

**CHAU NGUYEN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**